



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
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Secretary

ROBERT W. GOLLEDGE, Jr.
Commissioner

**MASSACHUSETTS
HAZARDOUS WASTE REGULATIONS
310 CMR 30.0000**

PUBLIC HEARING DRAFT

**Provision for Waiver of Requirements for Elementary Neutralization
of Hazardous Waste by Generators in Tanks and Containers
and Other Wastes and Activities that are Adequately Regulated or that are
Determined to Pose Insignificant Hazards**

May 2005

*Prepared by: The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Protection
Bureau of Waste Prevention*

This information is available in alternate format. Call April McCabe, ADA Coordinator at 1-617-556-1171. TDD Service - 1-800-298-2207.

DEP on the World Wide Web: <http://www.mass.gov/dep>



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Dear Citizen:

I am pleased to send you this copy of the public hearing draft of proposed amendments to the Massachusetts hazardous waste regulations.

After reviewing this public hearing draft, I hope that you will comment and attend one of the six public hearings to be held by the Department June 23 through 30, 2005; the public comment period will end on July 11, 2005. The Department would like to receive your comments and suggestions on how we can most effectively implement the hazardous waste program.

Please contact James Paterson at (617) 556-1096 or Lee Dillard Adams (508) 767-2775 if you have questions you would like to ask prior to the hearings. We hope you can attend and look forward to receiving your input.

Very truly yours,

James C. Colman
Assistant Commissioner
Bureau of Waste Prevention



Proposed Amendments to 310 CMR 30.0000

The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Protection
and the Board of Certification of Operators of Wastewater Treatment Facilities

PUBLIC HEARINGS NOTICE

The Department of Environmental Protection is holding public hearings on proposed amendments to: 310 CMR 30.0000, (the Hazardous Waste regulations, adopted pursuant to M.G.L. Chapter 21C); and 310 CMR 7.00 (the Air Quality regulations, adopted pursuant to M.G.L. Chapter 111, §§142 A-N), as well as proposed new regulations at 314 CMR 17.000 (Industrial Wastewater Management for Biotechnology Operations, adopted pursuant to M.G.L. c. 21, §§26 through 53). In addition, the Board of Certification of Operators of Wastewater Treatment Facilities is holding simultaneous public hearings on proposed amendments to 257 CMR 2.00 (the Certification of Operators of Wastewater Treatment Facilities regulations, adopted pursuant to M.G.L. c. 21, §34A and §34B).

The proposed or amended DEP regulations are organized into three regulatory packages.

Amendments to the Hazardous Waste Regulations consisting of:

- Provision for conditional waiver of requirements for elementary neutralization of hazardous waste by Generators in tanks and containers, and
- Provision for a case-by-case waiver determination process that would allow the Department to grant waivers for specific wastes and activities that are either adequately regulated or insignificant as a potential hazard (for wastes and activities not regulated by U.S. EPA under the federal Resource Conservation and Recovery Act);

Amendments to the Air Pollution Control regulations, consisting of:

- Plan Approval exemption for Biotechnology Surface Disinfection Processes, that is intended to provide a permit-by-rule for emission of volatile organic compounds from biotechnology operations' surface disinfection processes; and
- Plan Approval exemption for Biotechnology Laboratories; and

New Industrial Wastewater Management for Biotechnology Operations regulations and an amendment to the Certification of Operators of Wastewater Treatment Facilities regulations:

- These regulatory changes are intended to provide a permit-by-rule for discharge of industrial wastewater to the sewer and for pretreatment of industrial wastewater as well as exempt persons who manage, operate and maintain wastewater treatment facilities in compliance with 314 CMR 17.00 from obtaining a separate approval from the Board of Certification under 257 CMR 2.00.

Public hearings on the proposed amendments will be conducted under the provisions of Chapter 30A of the Massachusetts General Laws on:

Thursday, June 23, 2005 - Springfield - 1:00 p.m. - Department of Environmental Protection, Western Regional Office, 436 Dwight St., Room 305, 3rd Floor Courtroom, Springfield, MA

Friday, June 24, 2005 - Boston - 10:00 a.m. - Department of Environmental Protection, One Winter Street, 2nd Floor, Atlantic Room, Boston, MA

Monday, June 27, 2005 - Worcester - 3:00 p.m. - Department of Environmental Protection, Central Regional Office, 627 Main St., Commissioner's Conference Room, Worcester, MA

Tuesday, June 28, 2005 - Boston – 1:30 p.m. - Department of Environmental Protection, One Winter Street, 2nd Floor, Atlantic Room, Boston, MA

Wednesday, June 29, 2005 - Lakeville - 1:00 p.m. - Department of Environmental Protection, Southeast Regional Office, 20 Riverside Dr., 1st Floor Conference Room, Lakeville, MA

Thursday, June 30, 2005 - Boston - 10:00 a.m. - Department of Environmental Protection, One Winter Street, 2nd Floor, Atlantic Room, Boston, MA

Testimony may be presented orally or in writing at the public hearings. In addition, written comments will be accepted **until 5:00 p.m. on July 11, 2005** at the Department of Environmental Protection, 627 Main Street, Worcester, MA 01608, attention: Lee Dillard Adams.

Copies of the regulation amendments and background documents are available on the DEP website at <http://www.mass.gov/dep/bwp/biotech.htm> and during normal business hours at the DEP Boston Info Center or DEP's Regional Service Centers:

DEP Boston Info Center, One Winter Street, Boston (800) 462-0444
DEP Southeast Region, 20 Riverside Drive, Lakeville (508) 946-2714
DEP Western Region, 436 Dwight Street, Suite 402, Springfield (413) 784-1100 x 2214
DEP Central Region, 627 Main Street, Worcester (508) 792-7683

This information is available in alternate format upon request to: ADA Coordinator, 4th floor, One Winter Street, Boston, 02108 at (617) 556-1057. For special accommodations for this event, call (617) 348-4056.

By order of the Department

Robert W. Golledge, Jr., Commissioner

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I. Introduction

The Massachusetts hazardous waste statute (M.G.L. Ch. 21C) allows the Department of Environmental Protection (DEP) to waive requirements of Ch. 21C when the Department determines that a particular hazardous waste or activity is “insignificant as a potential hazard” or “adequately regulated” by another governmental agency.

The Department is proposing to amend the hazardous waste regulations (310 CMR 30.0000) by: 1) allowing hazardous waste generators to apply on a case-by-case basis for a waiver of the requirements of the regulations; and 2) establishing a blanket waiver of the requirement for a treatment license for elementary neutralization of aqueous corrosive wastes at the site of generation. These provisions would be available to any generator of hazardous waste, not just the biotech industry.

II. Under What Authority Will These Waiver Provisions Be Adopted?

The Department is proposing to provide waivers to the requirements applied to hazardous wastes and activities, pursuant to the waiver clause in M.G.L. c. 21C, s. 4, which reads in part:

“...The responsibilities of the department shall include the developing and establishing of: (a) a list of hazardous wastes; (b) criteria and standards for the identification of hazardous wastes; (c) *provisions for waiver by the department for any waste which the department determines is insignificant as a potential hazard to public health, safety, welfare or the environment, or the handling, treating, storing, use, processing, or disposal of which is adequately regulated by another governmental agency, consistent with regulations promulgated under RCRA; . . .*” (emphasis added).

III. Proposal to Allow Case-by-Case Waiver of Requirements for Wastes and Activities.

This proposal would allow generators to apply to the Department on a case-by-case basis for waivers from requirements of 310 CMR 30.00000 and sets forth the information they need to provide the Department. It would establish the process and criteria the Department would use in reviewing those applications.

It should be noted that the Department is authorized by U.S. EPA to administer the federal Resource Conservation and Recovery Act (RCRA) and is required by this authorization to implement requirements that are no less stringent than federal hazardous waste requirements.

IV. Proposal to Waive the Requirement for a Treatment License for Elementary Neutralization of Aqueous Corrosive Hazardous Waste.

The proposed waiver from the requirement for a treatment license would allow hazardous waste generators to adjust the pH of their own aqueous wastes that are hazardous solely due to the corrosivity characteristic, rendering the waste less hazardous or non-hazardous. Generators could benefit from this proposed rule change since it is more cost-effective to treat small quantities of corrosive waste than to ship them off-site as hazardous waste.

V. Why is the Department Adopting the Elementary Neutralization Waiver?

While the federal hazardous waste program allows generators to conduct treatment in tanks and containers without a license, current Massachusetts Hazardous Waste Regulations (310 CMR 30.0000) prohibit treatment, including elementary neutralization, by Small and Large Quantity generators without a license.²

With this proposal, the Department would address, in part, longstanding requests from the regulated community to allow treatment on-site by generators in tanks and containers without a license. Based on input from its Hazardous Waste Advisory Committee, the Department would exclude from licensing *elementary neutralization* (pH adjustment of aqueous corrosive waste) over other forms of treatment since it is a relatively simple, low-risk procedure, and because the corrosive waste would be managed as a hazardous waste until it is made non-hazardous by elementary neutralization. The Department has determined that elementary neutralization, at the site of generation, of aqueous corrosive hazardous wastes is insignificant as a potential hazard when managed in compliance with the proposed standards.

DEP has determined that allowing elementary neutralization without a license is beneficial, since it will help reduce volumes of hazardous waste that would otherwise be shipped off-site for disposal, thereby reducing the risks of releases during transportation and disposal. Eliminating the license requirement would also allow generators to better achieve the goals of waste minimization and hazard reduction. Even if off-site disposal is ultimately required, treatment could reduce hazard levels and handling risks. Finally, this proposal is consistent with the Department's broader effort to make its hazardous waste program more consistent with requirements under the federal program, except where more stringent state requirements are needed.

VI. What Provisions of the Hazardous Waste Regulations Will Be Amended?

30.010-New definition for "Elementary Neutralization" to clarify the limits of chemical neutralization.

30.010 - New definition for "Elementary Neutralization Unit (ENU)." The Federal definition will be adopted and revised to make it clear that it applies to "aqueous" hazardous waste only.

30.340(8) – Cross-reference to new waiver provision for corrosive wastes treated in an elementary neutralization unit at 310 CMR 30.1100. Same for 30.351(11).

30.501(2)(h) and 30.601(2)(h) - Amended to clarify that management standards for hazardous waste facilities do not apply to generators conducting treatment in an elementary neutralization unit, provided that specified requirements are complied with.

30.801(17) - Addition of "(17) Elementary Neutralization..." as a form of treatment, which does not require a license to treat a hazardous waste.

² Very Small Quantity Generators may treat hazardous waste without having to obtain a license pursuant to 310 CMR 30.353(10).

30.1100 - Wastes and Activities Subject to Waiver

30.1101 - General Requirements for Wastes and Activities Subject to Waiver

30.1102 - Case-by-case Waiver Determinations for Specific Hazardous Wastes and Activities

30.1103 - Treatment of Corrosive Hazardous Waste in an Elementary Neutralization Unit

VII. Proposed Revisions to 310 CMR 30.0000: Waiver Provisions for Case-by-Case Waiver Determinations and On-Site Treatment of Corrosive Hazardous Wastes in Elementary Neutralization Units

1. *Table of Contents* is revised to include the following new sections:

310 CMR 30.1100: Wastes and Activities Subject to Waiver

310 CMR 30.1101: Requirements for Wastes and Activities Subject to Waiver

310 CMR 30.1102: Case-by-case Waiver Determinations for Specific Hazardous Wastes and Activities

310 CMR 30.1103: Treatment of Corrosive Hazardous Waste in an Elementary Neutralization Unit

2. *30.010: Definitions* is amended to add a new definition as follows:

Elementary Neutralization means the reacting of an acid or base with an aqueous corrosive hazardous waste in an elementary neutralization unit for the intended and actual purpose of rendering the waste less hazardous or non-hazardous.

3. *30.010: Definitions* is amended to add a new definition as follows:

Elementary Neutralization Unit means a device which:

- (a) is used for neutralizing aqueous wastes that are hazardous solely because they exhibit the corrosivity characteristic defined in 310 CMR 30.123(1)(a) or that are listed in 310 CMR 30.130 solely because they exhibit the corrosivity characteristic; and
- (b) meets the definition of a tank, tank system or container;

4. *30.340: Large Quantity Generators* is amended by inserting the following section:

(8) A large quantity generator may conduct elementary neutralization of corrosive hazardous wastes at the site of generation in an elementary neutralization unit in compliance with 310 CMR 30.1103, without a license to treat hazardous waste, but shall comply with all applicable provisions of 310 CMR 30.0000 while such waste remains hazardous.

5. 30.351: Small Quantity Generators is amended by inserting the following:

(11) A small quantity generator may conduct elementary neutralization of corrosive hazardous wastes at the site of generation in an elementary neutralization unit in compliance with 310 CMR 30.1103 without a license to treat hazardous waste, but shall comply with all applicable provisions of 310 CMR 30.0000 while such waste remains hazardous.

6. 30.501: Applicability is amended by inserting 30.501(2)(h) in the following section:

(2) The requirements of 310 CMR 30.500 do not apply to:

(a).....

(h) elementary neutralization of corrosive hazardous waste at the site of generation in an elementary neutralization unit provided that the generator is in compliance with 310 CMR 30.1103.

7. 30.601: Applicability is amended by inserting 310 CMR 30.601(2)(h) as follows:

(2) The requirements of 310 CMR 30.600 do not apply to:

(a).....

(h) Elementary neutralization of corrosive hazardous waste at the site of generation in an elementary neutralization unit provided that the generator is in compliance with 310 CMR 30.1103.

8. 30.801: Applicability is amended by adding a new paragraph, 30.801(17), as follows:

(17) The elementary neutralization of corrosive hazardous waste at the site of generation in an elementary neutralization unit provided that the generator is in compliance with 310 CMR 30.1103.

9. 310 CMR 30.000: Hazardous Waste Regulations is amended by inserting the following:

310 CMR 30.1100: Wastes and Activities Subject to Waiver

310 CMR 30.1100 through 30.1103, cited collectively as 310 CMR 30.1100, is promulgated pursuant to the authority set forth in M.G.L. c. 21C, §4 and 310 CMR 30.001, and sets forth requirements for wastes and activities determined by the Department to be insignificant as a potential hazard to public health, safety, welfare or the environment, or the handling, treating, storing, use, processing, or disposal of which is adequately regulated by another governmental agency, consistent with regulations promulgated under the federal Resource Conservation and Recovery Act as administered by U.S. EPA.

310 CMR 30.1101: General Requirements for Wastes and Activities Subject to Waiver

(1) Any person who engages in any activity subject to 310 CMR 30.1100 may do so without complying with the specific requirements expressly waived by 310 CMR 30.1100 or by any waiver determination from the Department, provided that such person complies with: the applicable terms and conditions set forth in 310 CMR 30.1100 and in any waiver determination, and all other applicable requirements in 310 CMR 30.0000 that are not expressly waived. All provisions of 310 CMR 30.0000 that are not expressly waived in 310 CMR 30.1100 shall remain in effect for that activity.

(2) If a person fails to comply with any term or condition of a waiver determination or any requirement set forth or referenced in 310 CMR 30.1100, or if the Department determines that a waste or activity is no longer insignificant as a potential hazard to public health, safety, welfare or the environment or is no longer adequately regulated by another governmental agency, when managed or conducted in compliance with the conditions of the waiver and the requirements set forth in 310 CMR 30.1100, the Department may:

- (a) order the person to cease any further activity otherwise allowed under 310 CMR 30.1100 and to comply with all provisions of 310 CMR 30.0000 that apply in the absence of any waiver (including but not limited to obtaining a valid license from the Department),
- (b) modify, suspend, or revoke any waiver determination, at the Department's discretion, and
- (c) take any other action authorized by law.

310 CMR 30.1102: Case-by-Case Waiver Determinations for Specific Hazardous Wastes and Activities

(1) For wastes and activities that the Department determines are insignificant as a potential hazard to public health, safety, welfare or the environment or are adequately regulated by another government agency, consistent with regulations promulgated under the Resource Conservation and Recovery Act, the Department may grant a generator a waiver from any or all of the requirements of 310 CMR 30.0000.

(2) All generators shall manage hazardous waste in accordance with all applicable provisions of 310 CMR 30.0000, provided however, if the Department issues a written positive waiver determination to a generator, such generator shall comply with all terms and conditions of such determination and all applicable requirements of 310 CMR 30.0000 not expressly waived in such determination.

(3) Any generator seeking a waiver of any requirement in 310 CMR 30.0000, not expressly waived by other provisions in 310 CMR 30.0000, shall submit a request for waiver on a form acceptable to the Department and shall include:

- (a) The applicant's name, address, and EPA Identification Number or Massachusetts Identification Number;

- (b) The name and telephone number of an individual responsible for supervising the waste and/or management activities addressed in the application;
 - (c) A detailed description of the waste and activity, and the basis for the generator's assertion that it is insignificant as a potential hazard to public health, safety, welfare, or the environment, or that it is adequately regulated by another governmental agency consistent with regulations promulgated under the Resource Conservation and Recovery Act;
 - (d) A description of the proposed method of management, including a description of required equipment;
 - (e) A statement of each requirement for which a waiver is sought;
 - (f) A statement of the need and justification for a waiver of hazardous waste requirements, including any supporting tests, studies, or other information; including but not limited to information on the volume, quantity, toxicity, frequency and rate of generation of the waste;
 - (g) A demonstration that the waiver sought is consistent with the requirements of the Resource Conservation and Recovery Act and applicable regulations;
 - (h) Such other information as the Department may require to determine that the proposed waste management activity will be in compliance with 310 CMR 30.1100 and either will be insignificant as a potential hazard to public health, health, safety, welfare or the environment, or welfare, or the environment, or is adequately regulated by another governmental agency consistent with regulations promulgated under the Resource Conservation and Recovery Act;
 - (i) A signature certified pursuant to 310 CMR 30.009; and
 - (j) If applicable, compliance with, and remittance of any fee established pursuant to, any applicable provision of 310 CMR 4.00.
- (4) The burden shall be on the applicant to persuade the Department that the waste or activity is insignificant as a potential hazard to public health, safety, welfare, or the environment or is adequately regulated by another governmental agency consistent with regulations promulgated under the Resource Conservation and Recovery Act;
- (5) The Department will notify the applicant of the Department's determination in writing. The Department will consider factors such as the volume, quantity, toxicity, or frequency and rate of generation, and such other criteria, as it deems appropriate for the waste or activity.
- (6) A determination pursuant to 310 CMR 30.1102 is only applicable to a generator that has requested and obtained a positive waiver determination from the Department. No waiver may be assigned or transferred without the written approval of the Department.
- (7) A determination pursuant to 310 CMR 30.1102 shall apply only to the waste or activity specified in the determination.
- (8) The Department may grant a waiver, and may allow a waiver to remain in effect, but only to the extent, and only while, the Department is persuaded that such waste or activity is insignificant as a potential hazard to public health, safety, welfare, or the environment or

is adequately regulated by another governmental agency consistent with regulations promulgated under the Resource Conservation and Recovery Act.

310 CMR 30.1103: Treatment of Corrosive Hazardous Waste in an Elementary Neutralization Unit

- (1) A generator of aqueous corrosive hazardous waste may conduct elementary neutralization of such waste in an elementary neutralization unit at the site of generation in lieu of the licensing requirements of 310 CMR 30.500 through 30.900 for treatment of corrosive hazardous waste, provided that the generator complies with all provisions in 310 CMR 30.1103 and all applicable generator provisions in 310 CMR 30.0000.
- (2) No person shall conduct elementary neutralization of any hazardous waste in an elementary neutralization unit without a license, except for corrosive hazardous waste that:
 - (a) prior to treatment is aqueous;
 - (b) is hazardous solely because it exhibits the corrosivity characteristic defined in 310 CMR 30.123(1)(a); and
 - (c) if the waste is listed in 310 CMR 30.131, is listed solely because it exhibits the corrosivity characteristic.
- (3) Any large or small quantity generator that conducts elementary neutralization of aqueous corrosive hazardous waste in an elementary neutralization unit pursuant to 310 CMR 30.1103 in lieu of obtaining a valid treatment license from the Department shall:
 - (a) prior to commencing elementary neutralization for the first time, submit a notification to the Department on a form prescribed by the Department and include at least the following:
 1. The generator's name, address, phone number, and EPA Identification
 2. Number and the name and address of the site of treatment, if different;
 3. A description of the waste stream, including details of constituents, and the process generating that waste stream;
 4. A description of the method of treatment and equipment;
 5. A characterization of the treatment residuals and a description of the method for handling the treatment residuals;
 6. Such other information as the Department may require to determine that the proposed waste treatment activity will be in compliance with 310 CMR 30.1100 and will not constitute a significant potential hazard to public health, safety, welfare, or the environment; and
 7. A signature certified pursuant to 310 CMR 30.009(1).
 - (b) before neutralizing any aqueous corrosive hazardous waste in an elementary neutralization unit, perform a waste analysis and trial test as follows:

1. generators shall conduct waste analyses and trial treatment tests on a representative sample of the waste, or obtain documentation of similar treatment on comparable waste under similar operating conditions, to document that the waste may be treated and disposed of in compliance with the requirements of 310 CMR 30.1100,
 2. the analysis may include data developed by the generator pursuant to 310 CMR 30.302,
 3. the waste analysis shall be repeated whenever the hazardous waste to be treated or the process for treating it has changed such that the previous waste analysis is no longer representative of the waste or the treatment process is no longer adequate or appropriate for the waste, and
 4. the generator shall retain such information referenced in 310 CMR 30.1103(3) at the site of generation until three years after the next set of analytical results is obtained in compliance with 310 CMR 30.1103(3)(b), if any, or until three years after the generator has ceased conducting elementary neutralization;
- (c) determine whether the waste after treatment exhibits any characteristic of hazardous waste as identified in 310 CMR 30.120;
- (d) determine the extent to which the federal land disposal restrictions apply to the waste after treatment;
- (e) comply with any applicable federal or state NPDES permit requirements or any applicable federal, state or local pretreatment limits and any applicable holding tank standards, if the waste, after treatment, is discharged to a POTW or to surface waters; and
- (f) shall provide any and all information relevant to the treatment of hazardous waste to the Department upon the Department's request.
- (4) Any large or small quantity generator that conducts elementary neutralization of aqueous corrosive hazardous waste in an elementary neutralization unit pursuant to 310 CMR 30.1103 in lieu of obtaining a valid treatment license from the Department shall not neutralize corrosive waste in a manner that:
- (a) presents a danger to public health, health, safety, welfare or the environment or welfare, or to the environment, including but not limited to generation of toxic vapors or fumes;
 - (b) generates extreme heat or pressure; or
 - (c) damages the structural integrity of the container or tank containing the waste.